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Response

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Tyler A. Lowrey § Group Art Unit: 2813
Serial No.: 10/020,757 ✓ §
Filed: October 30, 2001 § Examiner: L. Schillinger
For: Phase Change Material § Atty. Dkt. No.: ITO.0513US
Memory Device § (P13341)

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Commissioner for Patents
PO Box 1450
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REQUEST FOR RECONSIDERATION

Sir:

In response to the restriction requirement placed in the Final Rejection mailed on April 21, 2003, reconsideration is respectfully requested pursuant to 37 C.F.R. §1.143.

The original restriction in this case, required election between method claims 1-10 and memory device claims 11-30.

Now restriction by original presentation is asserted based on the contention that new method claim 37 is both distinct and independent from original method claim 1.

New method claim 37 calls for forming a protective layer over a lower electrode of a phase change memory. Original claim 1 calls for forming a lower electrode, covering the lower electrode with a protective layer and forming a phase change material over the lower electrode material. Thus it is clear that both claims call for forming a protective layer and forming a protective layer over a lower electrode. Moreover, both claims call for a phase change memory.

Claims 1 and 37 cover substantially the same subject matter in different terminology. One claim may be broader or narrower than the other, but it is respectfully submitted that there is simply no basis whatsoever to argue that the two claims are independent.

Date of Deposit: May 5, 2003

I hereby certify under 37 CFR 1.8(a) that this correspondence is being deposited with the United States Postal Service as **first class mail** with sufficient postage on the date indicated above and is addressed to the Commissioner for Patents, Washington DC 20231.

Cynthia L. Hayden
Cynthia L. Hayden

To be independent, the claims must not be connected in design, operation or effect under the disclosure of the particular application under consideration. The facts relied on for this conclusion are in essence the reasons for insisting upon restriction. Here no facts are provided. It is respectfully submitted that no such facts could ever be provided.

There is clearly a disclosed relationship between the two claims, they cover the exact same invention in different words. While they may have different scopes one to the other, certainly there would be no need or requirement to do separate searching and certainly the inclusion of claim 37 can hardly be argued to raise some new issue.

Therefore reconsideration of the restriction requirement with respect to claims 37-43 is respectfully requested.

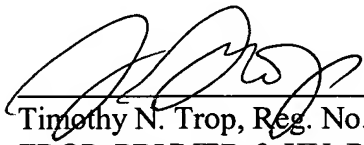
Claim 44 is not independent for the reasons set forth above. It differs from claim 37 only in calling for a conductive lower electrode and an insulating protective layer. The only argument for separateness is that phase change memory is not required in the originally elected claims. As pointed out above, this is plainly incorrect. Both claims call for a phase change memory.

Both of these features are clearly connected under the disclosure of the application since the application is titled "Phase Change Material Memory Device." Thus it is clear that both the material and the memory are plainly interrelated.

Therefore, reconsideration of the restriction requirement is respectfully requested.

Respectfully submitted,

Date: May 5, 2003



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